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Robert R. Corbin

May 18, 1981

INTERAGENCY

Mr. Sonny Najera, Assistant Director
Aeronautics Division
Department of Transportation
205 South 17th Avenue
Phoenix, Arizona 85007

Re: I81-066(R81-030)

Dear Mr. Najera:

In your letter of February 19, 1981, you asked whether hang gliders, either motorized or non-motorized, are included within the definition of "aircraft," as set forth in A.R.S. § 28-1701.A.2. If hang gliders qualify as aircraft, then they must be taxed and licensed pursuant to A.R.S. § 28-1761 et seq. In our opinion, hang gliders are not aircraft within the scope of A.R.S. § 28-1701.A.2, and thus are not subject to taxation and licensure.

A.R.S. § 28-1701.A.2 defines aircraft as follows:

2. "Aircraft" includes balloon, airplane, amphibian and all craft used for navigation through the air.

While the statute appears to cover any craft which may be navigated through the air, it lists several specific types of craft that are included within the definition. Inasmuch as hang gliders have unique characteristics that render them sufficiently dissimilar from any of the enumerated examples of covered craft, we think the doctrine of ejusdem generis precludes them from being included within the definition. Briefly, this doctrine holds that general words that follow the enumeration of particular classes of things should be interpreted as being applicable only to things of the same general class. Yauch v. State, 109 Ariz 576, 514 P.2d 709 (1973); White v. Moore, 46 Ariz. 48, 46 P.2d 1077 (1935).

This doctrine, when combined with the maxim that taxation statutes are to be strictly construed against the taxing authority, City of Phoenix v. Borden Co., 84 Ariz. 250, 326 P.2d 841 (1958), leads us to conclude that, until the

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Mr. Sonny Najera
May 18, 1981
Page 2

Legislature specifically includes hang gliders in the definition of "aircraft," they are not subject to taxation and licensure under A.R.S. §§ 28-1761 et seq.^{1/}

Sincerely,



BOB CORBIN
Attorney General

BC:clp

1. We note that there are no court decisions that directly resolve this issue. Although hang gliders have been deemed aircraft for insurance purposes, see e.g. Wilson v. Ins. Co. of N. America, 453 F.Supp 732 (N.D. Cal. 1978); Fielder v. Farmers New World Life Ins. Co., 435 F. Supp. 912 (C.D. Cal. 1977), they are not considered aircraft for purposes of F.A.A. regulation. Fielder v. U.S., 423 F.Supp. 77 (C.D. Cal. 1976).